

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Jimmy L Bates
SSN XXX-XX-2939

CHAPTER 13 CASE

CASE NO. 04-33395 DDO

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: Debtor and other entities specified in Local Rule 9013-3(a).

1. U.S. Bank Consumer Finance (hereinafter "Secured Creditor"), by its undersigned attorney moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion on October 20, 2004, at 9:30 a.m., or as soon thereafter as counsel can be heard, before the Honorable Dennis D. O'Brien in Courtroom 228A of the above entitled Court located at U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than October 15, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or served and filed by mail not later than October 11, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case was filed on June 8, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 362 and Federal Rule of Bankruptcy Procedure 4001. This motion is filed under Federal Rule of Bankruptcy Procedure 9014 and Local Rules 9013-1 - 9019-1.

Movant requests relief from the automatic stay with respect to property subject to a lien. Movant requests said relief be effective immediately notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3).

6. Debtor is indebted to Secured Creditor in the original principal amount of \$47,613.00, as evidenced by that certain Promissory Note dated June 11, 2001, a copy of which is attached hereto as Exhibit "A", together with interest thereon.

7. Debtor's indebtedness is secured by a mortgage on real estate in which Debtor has an interest as evidenced by that certain mortgage deed dated June 11, 2001, executed by Jimmy L. Bates, Jr., a single person, recorded on August 22, 2001, as Document No. 3416103, a copy of which is attached hereto as Exhibit "B". The name and address of the original creditor is contained in the attached Exhibit "B". The property is located in Ramsey County, Minnesota and is legally described as follows to-wit:

The South 83 feet of the North 425 feet of the East 124.47 feet of Lot 4, Thorntons Subdivision of the Northeast Quarter of Section 13, Township 29, Range 23, Ramsey County, Minnesota. Together with a permanent easement for ingress and egress in common with others over the West 60 feet of the 184.47 feet of said Lot 4.

Secured Creditor is now the holder of said mortgage and is entitled to enforce the terms thereof.

8. At all times material, Debtor was in default of the payments and performance of obligations to Secured Creditor.

9. Pursuant to 11 U.S.C. § 362(g) the burden is on Debtor to prove absence of cause and/or adequate protection. This secured creditor's interest in the property is not adequately protected where, as of September 28, 2004, Debtor is delinquent in the making of post-petition monthly payments as required for the months of July, 2004 through September, 2004, inclusive, in the amount of \$445.06 each; accruing late charges of \$30.00 and attorneys fees and costs of \$700.00. Debtor has failed to make any offer of adequate protection.

10. Debtor has no equity in the property and the property is not necessary to an effective reorganization. The value of the property as scheduled by Debtor is \$195,000.00 subject to Secured Creditor's mortgage in excess of \$46,623.75.

The property is also subject to another mortgage in favor of World Savings in excess of \$136,758.00.

Considering selling costs of 10%, Debtor has no real equity in the property. The burden is on Debtor to establish that this property is necessary to an effective reorganization.

11. Secured Creditor desires to protect its interest in the aforementioned property and requests the Court to vacate the stay of actions and allow foreclosure pursuant to Minnesota law.

12. Secured Creditor has incurred and will incur legal fees and costs to protect and enforce its rights in the subject property.

WHEREFORE, Secured Creditor, by its undersigned attorney, moves the Court for an order for judgment that the automatic stay provided by 11 U.S.C. § 362(a) be modified so to permit the movant to commence mortgage foreclosure proceedings under Minnesota law and for such other relief as may be just and equitable.

Dated this 28th day of September, 2004.

WILFORD & GESKE

By /e/ James A. Geske
James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Ste 300
Woodbury, MN 55125
651-209-3300
Attorney Reg. No. 14969X

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.



CONSUMER INSTALLMENT NOTE

Creditor Name U.S. BANK NATIONAL ASSOCIATION, ND
 Address 4325 - 17TH AVENUE SW
FARGO, ND 58103

86,000
 Acct/Bank: 6820013431170001 / 04628
 Note Date June 11, 2001

Borrower(s) JIMMY BATES 432-43-2932

THIS IS A CONSUMER CREDIT TRANSACTION

The words "I", "ME" and "MY" refer to each borrower who signs below. The words "YOU" and "YOUR" refer to the Creditor. This is the agreement that governs my loan with you. I understand that each borrower who signs it is legally responsible for repaying the entire loan. Interest on my loan will be simple interest. This means that I'll only be charged for the interest that I owe you each day on the remaining balance of the amount I've borrowed. I also understand that the interest included in my Total of Payments and Installments is your estimate of the interest that I'll owe if each installment is paid on the date it's due. As a result, if I make early or late payments, the interest I will actually pay will be different from your estimate. My last payment will be adjusted up or down to make up for any difference. If my loan is written on a variable rate basis these amounts may also vary, either up or down, from your estimate due to changes in the rate. Each installment includes interest and may be applied first upon credit insurance charges and other fees than upon accrued interest and the balance upon principal. You are entitled to a minimum finance charge of \$ 50.00.

PROMISE TO PAY. To repay my loan, I promise to pay you Forty Seven Thousand Six Hundred Thirteen AND 00/100 dollars, (\$ 47,613.00) (the principal) plus interest on the principal at the rate shown below, credit insurance charges disclosed below, if any, and Late Charges and other charges disclosed below. If I have a right to rescind my loan, interest will begin accruing on the first day (excluding Saturday, Sunday and Federal holidays) after the day my right to rescind ends. I will pay you interest on this loan at an annual rate which is equal to:

☒ 9.54 % until the loan is paid in full,
☐ % (the margin) ☐ over ☐ under the Index Rate.
 then ☐ % (the margin) ☐ over ☐ under the Index Rate.
 The Index Rate on any date is equal to _____.

The Index Rate on the Note Date is equal to _____ %. The interest on this note will change each day the Index Rate changes faster the Fixed Rate Period, if any.

☐ The Index Rate is set at your discretion. Any increase in the interest rate will be reflected in a larger final payment. For example, if my loan were for \$10,000 at 10% for 2 years and the rate increased to 11% in one month and I had been scheduled to make 24 payments of \$450 and a final payment of \$752.80, my final payment would be increased by \$116.38. The same interest rate at the time of maturity will remain in effect after this note comes due. The interest rate charged on the loan will never exceed _____ %.

If the Index Rate as described above, for any reason, ceases to be available, you may substitute a comparable successor Index Rate. I will repay the principal and interest as follows:

a. ☒ In 240 installments beginning 07/11/01 and on the same day of each ☒ month ☐ thereafter until and including 06/11/21 (the "Maturity Date"). The amount of each payment shall be equal to \$ 445.06 (final payment may be different). "For any month without that day, payment is due on the last day of the month."
☐ In _____ installments beginning _____ and on the same date of each ☐ month ☐ thereafter until and including _____ (the "Maturity Date"). The amount of each of the first _____ payments shall be equal to \$ _____. The amount of the last _____ payments will vary. At the end of the Fixed Rate Period, you will change the payments once a year. You will change them so that payment at the new amount would fully pay off the principal and interest still owing as long as there is no future change in the interest rate. Each year after the Fixed Rate Period until the Maturity Date you will again change the payment amount in the same way. I understand however that at the Maturity Date I may have to pay a larger payment if the interest payment has increased. You may also change my payment amount as described in the "NEGATIVE AMORTIZATION" section.

b. ☐ on demand.

c. ☐ _____

If b or c are checked, I will pay you accrued interest ☐ monthly ☐ beginning _____ and at maturity.

I want monthly payments deducted when due ☒ Yes ☐ No; from my ☐ Savings ☒ Checking Acct. # 484772062746

Returned Check Fee. Institution 091000022

I agree to pay a \$ 20.00 fee if my payment check is returned to you unpaid, or there is a problem with the check so you cannot process it.

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost me	Amount Financed The amount of credit provided to me or on my behalf.	Total of Payments The amount I will have paid when I have made all payments as scheduled.
9.64 %	\$ 59,550.40	\$ 47,264.00	\$ 106,814.40

PAYMENT SCHEDULE "e" means an estimate.

Number of Payments	Amount of Payments	When payments are due
240	\$445.06	MONTHLY beginning 07/11/01 beginning beginning

DEMAND FEATURE: ☐ The loan has a demand feature. ☐ These disclosures are based on an assumed maturity of one year.

VARIABLE RATE: ☐ (Primary dwelling secured; term > 1 year) My loan has a variable rate feature. Disclosures about the variable rate feature were provided to me earlier.
☐ The annual percentage rate may increase during the term of this loan if (Index Rate) increases.
☐ The Index Rate is set at the discretion of the bank.
 The interest rate will never exceed _____ %.

SECURITY: I am giving you a security interest in ☐ the property being purchased. ☒ ALL OTHER ASSETS OF BORROWER, INCLUDING
 Collateral securing other loans with you may also secure this loan. This loan is secured by any deposit accounts I have with you.

PREPAYMENT: If I pay off early, I ☒ will not have to pay a penalty. ☐ I may have to pay a minimum finance charge.

LATE CHARGE: If a payment (other than the final payment) is more than 3 days late, I must pay you a late charge of 15 % of the late payment or \$ 15.00 whichever is less.

REQUIRED DEPOSIT: (CHECK IF APPLICABLE) ☐ The annual percentage rate does not take into account your required deposit.

ASSUMPTION: (DWELLING PURCHASE/CONSTRUCTION ONLY) Someone buying my home cannot assume the remainder of my obligation on the original terms.

CONTRACT TERMS: See the contract documents for any additional information about nonpayment, default, any required payment in full before the scheduled date, and prepayment penalties and refunds.

COLORADO BORROWERS: Balloon Payment Disclosure (Scheduled payment more than twice as large as the average of all other payments). Check if applicable (not applicable if loan is primarily secured by an interest in land used for residential purposes): ☐ This loan involves a balloon payment of \$ _____ due on _____.

You agree to refinance this payment when due at your prevailing rate in effect at that time for the same type of loan provided I meet your normal credit standards and provided you are still in the business of making the same type of loan.

DOC# 3416103

Certified Recorded On
AUG. 22, 2001 AT 09:00AMSigned: DD
OFFICE CLERK
RANEY COUNTY MN

Fee Amount: 121.50

UNLAWFUL TO REUSE FOR ANY OTHER PURPOSE

usbank.

STATUTORY MORTGAGE

MINNESOTA

81349117001

ABSTRACT

04425/21/70806

THIS STATUTORY MORTGAGE (the "Mortgage"), made this 11th day of June, 2001, between
JOHN L. RAYNE JR. A SINGLE PERSONwith an address at 3130 WILLIAM ST., ROSEVILLE, MN 55113
(collectively the "Mortgagor"), and U.S. BANK NATIONAL ASSOCIATION (NO)
having its office at 4325 - 17TH AVENUE SW, FARGO, ND 58103
(the "Mortgagee");

WITNESSETH

To secure the payment of Forty Seven Thousand Six Hundred Thirteen AND 00/100
Dollars, (\$ 47,613.00) payable on 05/11/21, under the terms of that certain note dated
June 11, 2001 from JOHN RAYNE(collectively the "Borrower")
to Mortgagee in the amount of Forty Seven Thousand Six Hundred Thirteen AND 00/100
Dollars, (\$ 47,613.00) and all renewals and modifications of that note (the "Note"), together with interest thereon.
If the principal amount secured by this Mortgage is less than the principal amount of the Note, then this Mortgage secures the principal
balance of the Note outstanding at anytime only to the extent that the principal balance does not exceed that lesser amount secured.

The Note secured hereunder is (check one):

- ☒ A promissory note, the proceeds of which may not be redevalued following payment; or
- ☐ A revolving credit note or agreement under which advances, payments and redevalued monies may be made from time to time, provided that the maximum principal amount which at any one time may be outstanding on the Note and may be secured by the Mortgage is \$ 100,000.00. The Mortgagee shall not be obligated to satisfy the Mortgage until all amounts outstanding on the Note have been repaid and the Mortgagor's right, if any, to obtain additional advances under the Note has been permanently terminated.

Mortgage. Mortgagor hereby mortgages to Mortgagee the tract of land lying in the County of RANEY
State of Minnesota, legally described as follows, to-wit:

SEE ATTACHMENT (9) A FOR LEGAL DESCRIPTION

PROPERTY COMMONLY KNOWN AS: RANEY COUNTY3130 WILLIAM ST
ROSEVILLE, MN 55113together with all tenements, easements, hereditaments, privileges, minerals and general rights, water and water rights, buildings,
fixtures and improvements now or hereafter erected or located on the above-described land (hereinafter referred to as the
"Mortgaged Premises").1. Statutory Covenants. Mortgagee makes and includes in this Mortgage the Statutory Covenants and other provisions set forth in
Minnesota Statutes Section 507.15 or any future Minnesota Statute providing for a statutory form of a mortgage and the
Mortgagor covenants with the Mortgagee the following Statutory Covenants:

- (a) To warrant title to the Mortgaged Premises, subject only to LIENS AND ENCUMBRANCES OF RECORD
- (b) To pay the indebtedness as herein provided, if the Mortgagor is the Borrower.
- (c) To pay all taxes.
- (d) To keep all buildings insured against fire for an amount not less than the full replacement cost but in any event not less than the
unpaid amount of the Note secured by this Mortgage and all prior mortgages (if any) and against other hazards for the amounts
specified by Mortgagee for the protection of the Mortgagee, including, but not limited to, lightning, hazards under the usual
extended coverage endorsement, and all other hazards and risks of direct physical loss occasioned by any cause whatsoever,
subject only to the exceptions and exclusions, if any, agreed to by Mortgagee. All such policies shall name Mortgagee as loss
payee under the so-called standard mortgagee clause, contain no pro rata reduction provisions and provide for not less than thirty
(30) days' notice to Mortgagee of cancellation of said policy.
- (e) That the Mortgaged Premises shall be kept in repair and no waste shall be committed.
- (f) That the whole of the principal sum shall become due after default in the payment of any installment of principal or interest, or of
any tax, or in the performance of any any other covenant, at the option of the Mortgagee.

CUSTOM RECORDING

EXHIBIT

B

3416103

6. **Statutory Power of Sale, Waiver and Agreement.** At maturity, whether at the stated time or prior thereto by the acceleration of maturity pursuant hereto, Mortgagee (in addition to any other remedies provided for herein or which it may have at law or equity) shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorneys' fees.

MORTGAGOR HEREBY: EXPRESSLY CONSENTS TO THE FORECLOSURE AND SALE OF THE MORTGAGED PREMISES BY ACTION PURSUANT TO MINNESOTA STATUTES CHAPTER 581 OR, AT THE OPTION OF MORTGAGEE, BY ADVERTISEMENT PURSUANT TO MINNESOTA STATUTES CHAPTER 580, WHICH PROVIDES FOR SALE AFTER SERVICE OF NOTICE THEREOF UPON THE OCCUPANT OF THE MORTGAGED PREMISES AND PUBLICATION OF SAID NOTICE AS REQUIRED BY LAW IN THE COUNTY IN MINNESOTA WHERE THE MORTGAGED PREMISES IS SITUATED; ACKNOWLEDGES THAT SERVICE NEED NOT BE MADE UPON MORTGAGOR PERSONALLY (UNLESS MORTGAGOR IS AN OCCUPANT) AND THAT NO HEARING OF ANY TYPE IS REQUIRED IN CONNECTION WITH THE SALE; AND EXCEPT AS MAY BE PROVIDED IN SAID STATUTES, EXPRESSLY WAIVES ANY AND ALL RIGHT TO PRIOR NOTICE OF SALE OF THE MORTGAGED PREMISES AND ANY AND ALL RIGHTS TO A PRIOR HEARING OF ANY TYPE IN CONNECTION WITH THE SALE OF THE MORTGAGED PREMISES.

7. **Miscellaneous.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Minnesota. All covenants and agreements by Mortgagor in this Mortgage shall bind Mortgagor and Mortgagor's heirs, successors and assigns and shall inure to the benefit of Mortgagee and its successors and assigns, whether so expressed or not. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by the Mortgage. In the event any provision hereof is determined to be unenforceable or invalid, such provision or such part thereof as may be unenforceable or invalid shall be deemed severed from this Mortgage and the remaining provisions carried out with the same force and effect as if the severed provisions or part thereof had not been made a part hereof.

MORTGAGOR(S)

Jimmy L. Bates Jr. 6/11/01
JIMMY L. BATES JR. Date

Date

Date

STATE OF MINNESOTA
COUNTY OF RAMSEY } SS.

The foregoing instrument was acknowledged before me this 11th day of JUNE 2001
BY JIMMY L. BATES JR. A SINGLE PERSON



Notary Public

This instrument was Drafted
U.S. Bank
P.O. Box 2687
Fargo, ND 58108-2687

Return recorded document
U.S. Bank
Attn: Lien Perfection Dept.
P.O. Box 2687
Fargo, ND 58108-2687

3416103

JERRY BATES
6620011349117001ATTACHMENT A
Property Description

THE SOUTH 43 FEET OF THE NORTH 43 FEET OF THE EAST 124.47
FEET OF LOT 4, THORNTON SUBDIVISION OF THE NORTHEAST
QUARTER OF SECTION 11, TOWNSHIP 29, RANGE 21, RAMSEY
COUNTY, MINNESOTA,
TOGETHER WITH A PERMANENT EASEMENT FOR HIGHWAY AND HIGHWAY
IN COMMON WITH OTHERS OVER THE WEST 60 FEET OF THE 124.47
FEET OF SAID LOT 4.

BEING ABSTRACT LAND.

THIS PROPERTY LIES IN THE COUNTY OF RAMSEY, STATE OF
MINNESOTA.

4

ATTORNEY NO. 1081

Ramsay County

Recorder, Minnesota, do hereby
certify that the attached
instrument consisting of
4 pages is a true and
correct copy of the original
on file and of record in my
office.

Dated this 20th day of April 2004
RECORDED
By Steven D. J. [Signature] Deputy



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Jimmy L Bates
SSN XXX-XX-2939

CHAPTER 13 CASE

CASE NO. 04-33395 DDO

Debtor.

**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM STAY**

ARGUMENT

I. CAUSE EXISTS FOR THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)(1) WHERE THE INTEREST OF THIS SECURED CREDITOR IS NOT ADEQUATELY PROTECTED.

Pursuant to 11 U.S.C. § 362(g) the burden is on Debtor to prove absence of cause and/or adequate protection. Secured Creditor's interest in the property is not adequately protected where:

1. As of September 28, 2004, Debtor is delinquent for post-petition monthly payments as required for the months of July, 2004 through September, 2004, in the amount of \$445.06 each; accruing late charges of \$30.00 and attorneys fees and costs of \$700.00.

2. Debtor has failed to make any offer of adequate protection.

Furthermore, Debtor has failed to meet its contractual obligations to make payments as they become due after the filing of the bankruptcy petition, which failure constitutes "cause" entitling the Secured Creditor to relief from the automatic stay under 11 U.S.C. § 362(d)(1). A continued failure by Debtor to maintain regular payments to Secured Creditor is sufficient cause to entitle Secured Creditor to relief from the automatic stay. See In re Taylor, 151 B.R. 646 (E.D.N.Y., 1993) and In re Davis, 64 B.R. 358 (Bkrtcy. S.D.N.Y., 1986).

II. THE AUTOMATIC STAY SHOULD BE MODIFIED PURSUANT TO 11 U.S.C. § 362(d)(2) WHERE (1) DEBTOR DOES NOT HAVE ANY EQUITY IN THE PROPERTY, AND (2) THE

PROPERTY IS NOT NECESSARY TO AN EFFECTIVE REORGANIZATION.

The first requirement under § 362(d)(2) is met where the total of all the encumbrances against the property is in excess of the value of the property. The value of the property as scheduled by Debtor is \$195,000.00 subject to Secured Creditor's mortgage in excess of \$46,623.75.

The property is also subject to another mortgage in favor of World Savings in excess of \$136,758.00.

Considering selling costs of 10%, Debtor has no real equity in the property. The burden is on Debtor to establish that this property is necessary to an effective reorganization.

CONCLUSION

Secured Creditor is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) for cause, and where its interest in the secured property is not adequately protected. Secured Creditor is also entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(2) where Debtor has no equity in the property, and where the property is not necessary to an effective reorganization.

Secured Creditor respectfully requests an order of this Court modifying the automatic stay consistent with the attached proposed Order.

Dated this 28th day of September, 2004.

WILFORD & GESKE

By /e/ James A. Geske
James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Ste 300
Woodbury, MN 55125
651-209-3300
Attorney Reg. No. 14969X

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

CHAPTER 13 CASE

Jimmy L. Bates
SSN XXX-XX-2939

CASE NO. 04-33395 DDO

AFFIDAVIT OF
LISA BURCHFIELD

Debtor.

Lisa Burchfield, being first duly sworn on oath, deposes and states:

1. That she is the Bankruptcy Specialist of U.S. Bank Consumer Finance.

2. U.S. Bank Consumer Finance, is now the holder of a mortgage on real property in which the debtor has an interest. The debtor's indebtedness is evidenced by that certain mortgage deed dated June 11, 2001, executed by Jimmy L. Bates Jr., a single person, recorded August 22, 2001, as Document No. 3416103. The property is located in Ramsey County, Minnesota and is legally described as follows, to-wit:

The South 83 feet of the North 425 feet of the East 124.47 feet of Lot 4, Thorntons Subdivision of the Northeast Quarter of Section 13, Township 29, Range 23, Ramsey County, Minnesota. Together with a permanent easement for ingress and egress in common with others over the West 60 feet of the 184.47 feet of said Lot 4.

3. That she has reviewed the account records relating to the Bates mortgage loan, account no. 81349117001.

4. That as of September 17, 2004, the following amounts were owing on this account:

Unpaid Principal:	\$44,747.54
Interest through September 17, 2004	1,146.21
Attorney's Fees:	700.00
Late Charges:	30.00
TOTAL:	\$46,623.75

5. That the mortgage loan is delinquent for post-petition monthly mortgage payments for the months of July, 2004 through September, 2004 in the amount of \$445.06 each.

6. This affidavit is given in support of the motion of U.S. Bank Consumer Finance for relief from the automatic stay.

U.S. BANK CONSUMER FINANCE

By

Lisa Burchfield
Its Bankruptcy Specialist

Subscribed and sworn to before me
this 17th day of September, 2004.

Dawn M. Fish
Notary Public



DAWN M. FISH
Notary Public, State of Ohio
My Commission Expires 03-17-09

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Jimmy L Bates
SSN XXX-XX-2939

Debtor.

CHAPTER 13 CASE

CASE NO. 04-33395 DDO

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Joanna Cheyka, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Ste 300, Woodbury, Minnesota, declares that on September 28, 2004, I served the annexed Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion for Relief, Affidavit of Lisa Burchfield, and proposed Order to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Jimmy L. Bates
2120 Williams Street
Roseville, MN 55113

Robert J. Hoglund
PO Box 130938
Roseville, MN 55113

World Savings
PO Box 60129
Los Angeles, CA 90060-0129

Jasmine Z. Keller
12 South 6th St Ste 310
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55145

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 28th day of September, 2004.

/e/ Joanna Cheyka
Joanna Cheyka

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Jimmy L Bates
SSN XXX-XX-2939

CHAPTER 13 CASE

CASE NO. 04-33395 DDO

Debtor.

ORDER

The above entitled matter came on for hearing upon motion of U.S. Bank Consumer Finance (hereinafter "Secured Creditor"), pursuant to 11 U.S.C. § 362 on October 20, 2004, at U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota. Appearances were as noted in the record. The Chapter 13 Trustee filed her Report of Standing Trustee in response to this motion. Based upon the evidence adduced at said hearing, the arguments of counsel, and the Court being fully advised of the premises,

IT IS HEREBY ORDERED that Secured Creditor, its assignees and/or successors in interest, is granted relief from the stay of actions imposed by 11 U.S.C. § 362 with regard to that certain mortgage deed dated June 11, 2001, executed by Jimmy L. Bates, Jr., a single person, recorded on August 22, 2001, as Document No. 3416103 covering real estate located in Ramsey County, Minnesota, legally described as follows, to-wit:

The South 83 feet of the North 425 feet of the East 124.47 feet of Lot 4, Thorntons Subdivision of the Northeast Quarter of Section 13, Township 29, Range 23, Ramsey County, Minnesota. Together with a permanent easement for ingress and egress in common with others over the West 60 feet of the 184.47 feet of said Lot 4

and may pursue its remedies under state law in connection with the subject note and mortgage deed.

Notwithstanding Federal Rule of Bankruptcy Procedure

4001(a)(3), this Order is effective immediately.

Dated: _____

Judge of Bankruptcy Court